JOINT SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1923

The Indian Mines Bill

List of Reports of Select or Joint Committees presented in the Legislative Assembly in 1923.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Cotton Transport Bill.	15.1.23.	Reports of the Joint Committees
2.	The Cantonment(House Accommodation)Amendment Bill.	15.1.23.	
3.	The Indian Boilers Bill.	15.1.23.	
4.	The Indian Mines Bill.	16.1.23.	
5.	The Workmen's Compensation Bill.	24.1.23.	
6.	The Indian Official Secrets Bill.	31.1.23.	
7.	The Married Women's Property Bill by Mr.B.S.Kamat.	8.2.23.	
8.	The Indian Penal Code(Amendment) Bill(White Slave Traffic)	8.2.23.	
[illegible]		[illegible]	
9.	The Indian Cotton Cess Bill.	14.2.23.	-do-
10.	The Code of Civil Procedure(Amendment) Bill by Dr.Hari Singh Gour.	20.2.23.	
11.	The Hindu Law of Inheritance(Amendment) Bill by Mr.T.V.Seshagiri Ayyar.	14.3.23.	No Copy avai
12.	The Exclusion from Inheritance Bill by Mr.T.V. Seshagiri Ayyar.	14.3.23.	
13.	The Code of Criminal Procedure(Amendment) Bill (Sec.4) By Mr.Abul Kasem.	14. 3.23.	
14.	The Civil Marriage (Amendment) Bill by Dr.Hari Singh Gour.	14. 3.23.	
15.	The Mussalman Wakf Registration Bill by Mr.Abul Kasem.	15.3.23.	
16.	The Abolition of Transportation Bill.	3. 7.23.	
17.	The Indian Stamp (Amendment) Bill.	10.7.23.	
18.	The Indian Naturalization Bill.	10.7.23.	
19.	The Land Acquisition (Amendment) Bill.	10.7.23.	
20.	The Cantonments Bill.	18.7.23.	
21.	The Code of Civil Procedure(Amendment) Bill by Lala Girdhari Lal Agarwal.	24.7.23.	
22.	The Legal Practitioners Bill by Mr.K.C.Neogy.	24.7.23.	
23.	The Illegitimate Sons' Rights Bill.by Mr.V.K. Reddi Garu.	27.7.23.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Joint Committee to which the Bill to amend and consolidate the law relating to the regulation and inspection of mines was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

1. Paper No. I.
2. Paper No. II.
3. Précis of opinions.

The Committee elected the Honourable Mr. Innes as Chairman. Sixteen members out of a total of eighteen attended the meetings of the Committee.

Before proceeding to the detailed examination of the Bill clause by clause, the Committee considered what appeared to us to be the three most important points which arise in connection with the Bill. These are the definitions of "mine" and "child", and the question of the employment and presence of women and children in mines. We accordingly deal with these matters first in our report.

Clause 3(f).—The definition of a "mine" has caused considerable difficulty. Section 3(*d*) of the existing Act has proved unsatisfactory. In the first place, it is difficult to interpret. It merely states what a mine includes, not what it is, while at the same time specifically excluding excavations the depth of which does not exceed 20 feet and no part of which extends beneath the superjacent ground. This exclusion has led to many difficulties; for instance, an excavation might be a mine for one part of the year, and cease to be a mine at other times; while in places where excavations are on sloping ground, considerable argument has arisen as to how depth should be measured. In the second place, a more serious objection to the existing definition is that it excludes excavations which ought properly to be controlled under the Act. For instance, a mica mine which may be less than 20 feet in depth and no part of which may extend beneath the superjacent ground, may be in point of practice highly dangerous.

It is for these reasons that in the Bill as referred to us a much wider definition of a mine has been attempted, and the exclusion of excavations of less than a certain depth has been deleted. Certain Local Governments have raised objections on the ground that the definition now proposed is too wide. It is urged that it brings within the scope of the Act surface excavations to which it is both unnecessary and impracticable to apply the Act. It will embrace, for instance, small quarries and excavations less than 20 feet in depth for the extraction of boulder manganese, slate, limestone or clay, the control of which is not merely unnecessary but would prejudice the interests of the industry, and would, if it is to be at all effective, involve the appointment of an unnecessarily expensive staff. While we fully realize the force of these objections and agree that excavations of this nature should not be covered by the Act, we think it impossible to devise a satisfactory definition, which will exclude all the classes of excavations which ought to be excluded, without, at the same time, excluding others which ought not. And we cannot therefore agree to retain the section in the existing law which confers a statutory and wholesale exemption on all excavations which do not exceed a depth of 20 feet and no part of which extends beneath the superjacent ground. We think it will be better to retain the wider definition contained in the first part of the clause of the Bill as referred to us, and leave it to the Governor General in Council under clause 46 to exempt particular mines or classes of mines from all or such provisions of the Act as cannot suitably be applied to them. At the same time, for the sake of simplicity of definition and in pursuance of the principle that more complex exemptions should preferably be made by rule, we have deleted the second and third provisos to the definition. Incidentally we may add that the second proviso appears to us to be unnecessary, while, as pointed out by the Government of Burma, the third would exempt certain excavations made for prospecting purposes only, which it is desirable to include.

We recognize that our proposal is open to the criticism that it leaves a wide discretion to the executive authorities to decide what minor excavation should or should not be brought within the scope of the Act. We are, however, convinced that in view of the widely varying conditions under which mining operations are conducted in different parts of this country, it is better to permit this elasticity than to frame a more rigid definition which would certainly have the effect of excluding certain operations which ought properly to be brought under control.

Employment of women.—The present law regarding the employment of women is contained in section 20 (2) (*l*) of Act VIII of 1901. This is a provision which enables rules to be made prohibiting, restricting or regulating the employment of women either below ground or on particular kinds of labour where the employment is attended by danger. The rule-making power vests in the Governor General in Council or the Local Government. The Bill referred to us in clause 30 (*d*) enables a Local Government, subject to control, to make rules prohibiting, restricting or regulating the presence or employment in mines of women, either above or below ground or on particular kinds of labour. It is we think generally realized that the absolute prohibition of the employment of women below ground in coal mines is a mere matter of time. It cannot be introduced at once because time must be given to

employers to replace the labour of the 90,000 women who are at present working in mines. Some of us pressed for the inclusion of a statutory prohibition in the Bill with a provision that it should not come into force for five years after the passing of the Bill. We think, however, that this would involve such a radical alteration in the Bill that re-circulation would be essential, and as we are reluctant to delay its passage, we think it desirable to attempt to effect a compromise. We have, in the first place, transferred the provision relating to the employment of women from clause 30 to clause 29 of the Bill, so that the power of control may vest in the Governor General in Council. We have further re-drafted the provision so as to follow more closely the wording of the present law. We desire, however, to place on record a recommendation that the question of the employment of women below ground in mines should be taken up at a very early date with Local Governments with a view to prohibiting such employment either in all mines or in particular classes of mines at the end of a specified period, which we think should be about five years.

Children.—With one dissentient, we were of opinion that the maximum age of a 'child' laid down in the present Act should be raised. The necessity for this arises from the fact that it is at present impossible to adopt a half-time system in mines. Some of us would have raised the age to 14 and one member was in favour of raising it to 15, but by a considerable majority we decided to maintain the age of 13 laid down in the Bill.

By a majority also, we have decided to maintain the absolute prohibition laid down in clause 26 of the employment of children in mines, though some of us were inclined to allow the employment of children above ground. On the understanding that the Bill when passed should not be brought into operation earlier than the 1st of July, 1924, we unanimously agreed to maintain the second part of clause 26, which prohibits the presence of children in any part of a mine below ground. Our colleague Mr. Sarkar would like the operation of this clause to be postponed still further.

We now proceed to explain the important changes which we have made in the Bill.

Clause 1 (3).—We think that definite notice should be given in the law of the date on which it is to come into force, and we think this date should be the first day of July, 1924.

Clause 5.—We do not think it necessary to lay down in the Bill that the powers of the Chief Inspector under this clause should be subject to regulations.

Clause 11 (5).—In view of the changes which we have proposed in clause 19, we think that the power to lodge objections against the decision of a Committee should rest with the Chief Inspector only.

Clause 16.—The proviso and the sub-clause which we have here added are based on the English law on the subject. We discussed at some length the relative merits of our existing law and of the English law, and by a majority of one only decided in favour of something on the lines of the latter.

Clause 19.—We think that only an Inspector who has been authorised by the Chief Inspector should be empowered to issue orders under sub-clause (*2*). We further think that the machinery which the clause provides for the making and decision of objections is unnecessarily cumbrous, and we see no reason why objections should not be made direct to the Local Government for reference to a Committee. We have laid down that where an Inspector makes an order under sub-clause (*2*), there is to be an appeal within ten days to the Chief Inspector, and that objections may be made to the Local Government against a requisition under sub-clause (*1*), or an order under sub-clause (*2*), or an appellate order of the Chief Inspector under the new sub-clause which we have inserted as sub-clause (*3*). We have made a consequential amendment in clause 11 (*4*).

Clause 20.—We have given effect to the suggestion that this clause should be elaborated to make notice necessary of outbreaks of fire or irruptions of water. We have made consequential amendments in clauses 21 and 38.

Clause 27.—In view of the definition of 'qualified medical practitioner', we do not think it necessary to retain the words "specially authorized by the Local Government in this behalf".

Clauses 29 and 30.—Apart from the change we have made with regard to the control of the employment of women, the alterations we have made in these clauses are more or less formal.

Clause 31.—We have provided that regulations as well as rules shall be referred to the Mining Boards before they are published for criticism.

Clause 32.—In this clause we have restored the period of two months prescribed in the present law within which drafts of bye-laws are to be submitted to the Chief Inspector. We have also restored the provision which appears in the present law which enables the Local Government to rescind bye-laws which have already been approved by it.

Clause 34.—The punishment provided in this clause, though suitable for the offences of obstruction which are enumerated in the first part of the clause, seems to be unnecessarily severe for the offences defined in the latter part of the clause. We have therefore divided the clause into two parts and provided separate penalties.

Clause 41.—We think that the power to institute prosecutions should vest only in selected Inspectors.

Clause 42.—We have restored the form of the section in the present Act.

Clause 43.—We do not think it desirable that Sub-divisional Magistrates of the second class should be empowered to try offences under the Act.

Clause 44.—We have added a sub-clause to make it clear what are the powers of the Local Government when a report is made to it under this clause.

The other amendments which we have made in the Bill and which have not been specifically referred to in this report are, we think, of minor importance.

2. The Bill was published in the Gazette of India, dated the 16th September, 1922.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. A. INNES.

CHANDRADHAR BOROOAH.

G. S. KHAPARDE.

M. B. DADABHOY.

TEK CHAND.

A. C. CHATTERJEE.

N. M. SAMARTH.

N. C. SIRCAR.*

N. M. JOSHI.*

V. G. KALE.

P. P. GINWALA.

ALEX. R. MURRAY.

H. MONCRIEFF SMITH.

DELHI :
The 13th January, 1923.

* Subject to a note of dissent.

Note of Dissent.

I have signed the report subject to the following proviso :—

Clause 26.—Employment of children. —A period of grace of at least two years after introduction of the Bill be given to restrict employment of children, and that the restriction should be only in respect of below ground.

N. C. SIRCAR.

Dated the 13th January, 1923.

Minute of Dissent.

Signed reserving my right of dissent regarding clauses 10 (*c*) and 11 (*c*) which provide for the representation of employees on the Mining Board and the Committees and regarding clause 23 which fails to fix any time limit for the day's work and does not provide a rest period during the day's work.

N. M. JOSHI.

Dated the 13th January, 1923.

SGPI, Delhi—I—264—16-1-23—700.

(Words printed in italics indicate the amendments suggested by the Committee.)

A

BILL

TO

Amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Mines Act, 192 .

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on *the first day of July, 1924.*

Saving of Reg. XII of 1887.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887. XII of 1887.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent," when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

(*b*) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(*c*) "child" means a person under the age of thirteen years;

(*d*) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*e*) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(*f*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine :

provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals ;

(*g*) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability ;

(*h*) "prescribed" means prescribed by regulations, rules or bye-laws ;

21 & 22 Vict. c. 90.

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act ;

(*j*) "regulations," "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act ;

(*k*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days ; and

(*l*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER II.

Inspectors.

Chief Inspector and Inspectors.

4. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of

Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Functions of Inspectors.

5. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

Powers of Inspectors of Mines.

6. The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

Powers of special officer to enter, measure, etc.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and

may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

Facilities to be afforded to Inspectors.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

Secrecy of information obtained.

9. (*1*) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(*2*) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (*1*) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.

XV of 1889.

(*3*) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

CHAPTER III.

Mining Boards and Committees.

Mining Boards.

10. (*1*) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

(*a*) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;

(*b*) the Chief Inspector or an Inspector;

(*c*) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of whom one shall be a person qualified to represent the interests of persons employed in mines;

(*d*) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.

(*2*) The chairman shall appoint a person to act as secretary to the Board.

(*3*) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. (*1*) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

Committees.

(*a*) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf;

(*b*) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(*c*) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(*2*) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*3*) Where an owner, agent or manager fails to exercise his power of nomination under clause (*c*) of sub-section (*1*), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(*4*) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(*5*) On receiving such report the Local Government shall pass orders in conformity therewith unless the *Chief* Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the *Chief* Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(*6*) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

12. (*1*) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

Powers of Mining Boards.

(*2*) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally

V of 1908.

bound to do so within the meaning of section 176 XLV of 1860. of the Indian Penal Code.

Recovery of expenses.

13. The Local Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

Notice to be given of mining operations.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

Managers.

15. (*1*) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(*2*) If any mine is worked without there being a manager for the mine as required by subsection (*1*), the owner and agent shall each be deemed to have contravened the provisions of this section.

Duties and responsibilities of owners, agents and managers.

16. (*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(*2*) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

(*a*) *that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine ; and*

(*b*) *that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and*

(*c*) *that the offence was committed without his knowledge, consent or connivance.*

(*3*) *Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.*

CHAPTER V.

Provisions as to Health and Safety.

Conservancy.

17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances.

18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.

19. (*1*) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(*2*) If the Chief Inspector or an Inspector *authorised in this behalf by general or special order in writing by the Chief Inspector* is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(*3*) *Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.*

(*4*) The Chief Inspector or the Inspector making a requisition under sub-section (*1*) or an

50

order under sub-section (*2*), *and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section* (*3*), shall forthwith report the same to the Local Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(*5*) If the owner, agent or manager of the mine objects to a requisition made under sub-section (*1*) or to an order made *by the Chief Inspector* under sub-section (*2*), *or sub-section* (*3*), he may, within twenty days after the receipt of the notice containing the requisition or of the order *or after the date of the decision of the appeal, as the case may be,* send his objection in writing, stating the grounds thereof, to the *Local Government, which shall refer the same to a Committee.*

(*6*) Every requisition made under sub-section (*1*), or order made under sub-section (*2*), *or sub-section* (*3*) to which objection is made under sub-section (*5*), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (*1*) pending its decision on the objection.

(*7*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

V of 1898.

Notice to be given of accidents.

20. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, *outbreak of fire or irruption of water* occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the *occurrence* to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (*1*) When any accidental explosion, ignition, *outbreak of fire or irruption of water* or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

V of 1908.

XLV of 1860.

(*3*) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

Publication of reports.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

CHAPTER VI.

Hours and Limitation of Employment.

Hours of employment.

23. No person shall be employed in a mine—

(a) on more than six days in any one week,

(b) if he works above ground, for more than sixty hours in any one week,

(c) if he works below ground, for more than fifty-four hours in any one week.

Supervising staff.

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

Exemption from provisions regarding employment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein :

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Disputes as to age.

27. (1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred *by the Chief Inspector or the Inspector* for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of employees.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

52

CHAPTER VII.

Regulations, Rules and Bye-laws.

Power of Governor General in Council to make regulations.

29. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely :—

(*a*) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector ;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act ;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them ;

(*d*) for prescribing the qualifications of managers of mines and of persons acting under them ;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency ;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates ;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications ;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency ;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives ; IV of 1884.

(*j*) for prohibiting, restricting or regulating the employment in mines *or in any class of mines* of women either below ground or on particular kinds of labour *which are attended by danger to the life, safety or health of such women* ;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, *pathways and subsidences* ;

(*l*) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine ;

(*m*) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases;

(*n*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes;

(*o*) for requiring and regulating the use of safety lamps in mines;

(*p*) for providing against *dangers arising out of* the accumulation of water in mines;

(*q*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*r*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;

(*s*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(*t*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and

(*u*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf. IX of 1890.

Power of Local Governments to make rules.

30. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely :—

(*a*) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;

(*b*) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;

(*c*) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work ;

(*d*) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;

(*e*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked ;

(*f*) for prescribing the form of register required by section 28 ;

(*g*) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33 ;

(*h*) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public ;

(*i*) for the protection from injury, *in respect of any mine when the workings are discontinued*, of property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890 ;

IX of 1890.

(*j*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted ; and

(*k*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

Prior publication of regulations and rules.

31. (*1*) The power to make regulations and rules conferred by sections 29 and 30 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

X of 1897.

(*3*) *Before the draft of any regulation or* rule is published under *this section it shall be referred in the case of a regulation to every Mining Board*

constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and the *regulation or* rule shall not be so published until each such Board has *had a reasonable opportunity of* report*ing* as to the expediency of making the same and as to the suitability of its provisions.

(*4*) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Bye-laws.

32. (*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspecto or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(*a*) fails to submit within *two months* a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(*4*) (*a*) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(*b*) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(*c*) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(*d*) Every objection shall be in writing and shall state—

(*i*) the specific grounds of objection and

(*ii*) the omissions, additions or modifications asked for.

(*e*) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) *The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.*

Posting up of extracts from Act, regulations, etc.

33. There shall be kept posted up at *or near* every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

Penalties and Procedure.

Obstruction.

34. (*1*) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) *Whoever* refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything *which he has reason to believe to be likely* to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to *three* hundred rupees.

Falsification of records, etc.

35. Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, *notice*, record or *report* containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Omission to furnish plans, etc.

36. *Any person who, without reasonable excuse the burden of proving which shall lie upon him,* omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Contravention of provisions regarding employment of labour.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder *prohibiting*, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Notice of accidents.

38. Whoever, in contravention of the provisions of section 20, fails to give notice of *any* accidental *occurrence* shall, if the *occurrence* results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the *occurrence* results in loss of life, be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Disobedience of orders.

33. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing *contravention*, with a further fine which may extend to one hundred rupees for every day *on which the offender* is proved to have persisted in *the contravention* after the *date of the* first *conviction*.

Contravention of law with dangerous results.

40. (*1*) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (*1*).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

Prosecution of owner, agent or manager.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or *of* an Inspector *authorised in this behalf by general or special order in writing by the Chief Inspector*.

Limitation of prosecutions.

42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is *alleged to have been committed*.

Cognizance of offences.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Reference to Mining Board or Committee in lieu of prosecution in certain cases.

44. (*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or *of* an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS.

Decision of question whether a mine is under this Act.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Power to exempt from operation of Act.

46. (*1*) The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(*2*) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (*1*). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

Power to alter or rescind orders.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be.

Application of Act to Crown mines.

48. This Act shall apply to mines belonging to the Crown.

Saving.

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Repeals.

50. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 50.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1901	VIII	The Indian Mines Act, 1901.	The whole.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule as relates to the Indian Mines Act, 1901.
"	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Mines Act, 1901.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Report of the Joint Committee on the Bill to amend and consolidate the law relating to the regulation and inspection of mines, with the Bill as amended.

S321 Delhi—I—267—1-31-23—700.